

CAUSE NO. D-1-GN-19-001591

**PLAINTIFF'S ORIGINAL PETITION, REQUEST FOR DISCLOSURE
AND JURY DEMAND**

To the Honorable Court: Comes now **J. E. B.**, individually and as next friend to **F. C. B.**, his son, a minor child, and files his Original Petition, complaining of **CLAY DEAN HILL**, individually and d/b/a **SHILOH TREATMENT CENTER, SHILOH TREATMENT CENTER, INC.** (collectively “**SHILOH**” herein); **JUAN J. SANCHEZ**, individually and d/b/a, **SOUTHWEST KEY; and SOUTHWEST KEY PROGRAMS, INC.**; (collectively “**SWK**” herein), together with Requests for Disclosure, and Jury Demand.

A. NATURE OF ACTION & DISCOVERY CONTROL PLAN

1. This is an action for damages brought by **J. E. B.**, individually and as next friend to **F. C. B.**, his 9-year old son who was forcibly separated from his father and incarcerated in a foreign land without the due process of law, in violation of his rights to the equal protection of the law, under inhumane, cruel, and outrageous circumstances.

2. Discovery will be conducted pursuant to the Level 3 provisions of Rule 190.4, TRCP.

B. PARTIES

3. **J. E. B.** and **F. C. B.** are residents and citizens of the Republic of Guatemala. Both are of Hispanic and indigenous Mayan ancestry.

4. **CLAY DEAN HILL** is the owner and operator of **SHILOH TREATMENT CENTER**, located in Brazoria County, Texas. He may be found for service of process at 3926 Bahler, Manvel, Texas 77578. He is sued in his individual and representative capacities.

5. **SHILOH TREATMENT CENTER, INC.** is a for-profit corporation organized and existing under the law of the State of Texas. Service of process may be delivered to its registered agent, Clay Dean Hill at 3926 Bahler, Manvel, Texas 77578.

6. Defendant **Clay Dean Hill** and **SHILOH TREATMENT CENTER, INC.** are referred to collectively in this petition as "**Shiloh**."

7. **JUAN J. SANCHEZ** was, from 1987 until March 2019, the Chief Executive Officer of and controlling individual in the **SWK** entities. He is reported to have earned an annual salary in excess of \$1.5 million from the business enterprises he organized and directed in the incarceration of innocent children after they have been separated from their parents by government officials. He is sued in his individual and representative capacities. He may be found for service of process at 6002 Jain Lane, Austin, Texas 78721.

8. **Southwest Key Programs, Inc., d/b/a SOUTHWEST KEY, a/k/a Southwest Key Sol** is a non-profit corporation organized and existing under the law of the State of Texas. Its business operations are focused on the compulsory incarceration

of children from foreign countries who have been brought to the United States and separated from their parents by agents of various governmental entities. It is affiliated with and controls many lucrative and profitable business entities that earn great profits from servicing **SWK**'s child-incarceration operations. A substantial portion of the profits of the affiliated entities have been kicked-back to **SWK**'s Chief Executive Officer, Defendant Juan J. Sanchez. In early 2019 it was reported to have in excess of 8,000 employees, and gross revenues in excess of \$400,000. Service of process may be delivered to its registered agent Stephen Calvert at 6002 Jain Lane, Austin, Texas 78721.

9. Defendants **Juan J. Sanchez** and **SOUTHWEST KEY PROGRAMS, INC.** are referred to collectively in this petition as "**SWK**."

C. JURISDICTION & VENUE

10. This Court has jurisdiction of all claims brought by Plaintiff pursuant to the TEXAS CONSTITUTION, Art. V. § 8.

11. Plaintiffs' claims are within the jurisdictional limits of this court, and as required by Rule 47, TRCP, all the while reserving their right to trial by jury, Plaintiffs allege that they seek monetary relief in excess of \$1,000,000.

12. Venue is proper in Travis County pursuant to the provisions of Texas CIVIL PRACTICE & REMEDIES CODE, §§ 15.002 (2) (3) and 15.005. Defendant Sanchez is a natural person and a resident of Travis County. Defendants Southwest Key Programs, Inc. is not a natural person. Its principal office in the State of Texas is situated in Travis County.

13. All conditions precedent to this action have occurred or have been performed.

D. PLAINTIFF'S FACTUAL ALLEGATIONS

14. On or about January 24, 2018 **J. E. B.** and **F. C. B.**, father and 9-year old son, left their home in the Mayan highlands of Guatemala and began traveling to the United States in search of asylum, due to extortionate threats on their lives, and in search of a better life for themselves and other family members.

15. In early February 2018 **J. E. B.** and **F. C. B.** were apprehended by law enforcement authorities and taken into custody. Father and son were forcibly separated against their will. **J. E. B.** was deported to Guatemala without a legitimate credible fear hearing or any other process of the law due to him, and without his son.

16. **F.C.B.** was held, first in the State of Arizona by the **SWK** defendants and later at **SHILOH**, against his will, and without parental consent. He was dosed with powerful psychotropic drugs without parental consent and without legitimate consent from any legally competent *in loco parentis*.

17. **F.C.B.** was diagnosed by **SHILOH**'s medical staff using diagnostic criteria of the DSM IV, when DSM V was the appropriate guidance. He was misdiagnosed under either criterion. **SHILOH**'s diagnosis, Rule Out General Anxiety Disorder, was wrong. The correct diagnoses should have been Acute Stress Disorder, Post Traumatic Stress Disorder, or Ongoing Stress Disorder. (*See:* DSM V p. 280).

18. In legitimate medical practice, Lexapro is never prescribed in any amount for children under 10 years of age. **F.C.B.** celebrated his 10th birth in early December 2018, while incarcerated at Shiloh.

19. According to a statement made by a Shiloh social worker to his counsel, **F.C.B.** was sexually assaulted by another child inmate during the last few weeks of his incarceration at Shiloh. Shortly after the sexual assault, he was deported, without the

process of law due to one in his circumstances, to the Republic of Guatemala, in violation of his right to equal protection of the law.

20. Based on information and belief, **SHILOH** was paid between \$700.00 and \$1,200.00 per day for its services rendered incarcerating **F.C.B.** He was viewed as an asset to Shiloh and its owners. Despite his repeated requests to go home with his father and grandmother, there was no serious consideration of discharge. After the sexual assault was reported, however, he was viewed as a potential liability, and quickly deported on or about December 14, 2018.

21. As a result of Defendants' conduct alleged herein, Plaintiffs have suffered, and will continue to suffer physical pain, mental anguish, emotional distress, injury to earning capacity, and have incurred medical expenses.

E. SUMMARY OF FACTS FROM SHILOH'S RECORDS

22. All facts alleged in this portion of the complaint are based on medical records provided by **SHILOH** in response to counsel's request on or about September 17, 2018. (FCB – 000003) The records are not authenticated by a custodian's affidavit or declaration. They are not complete, covering a period from June 21, 2018 to September 24, 2018. They are included this Petition as admissions of a party opponent and declarations against interest.

23. On or about February 6, 2018 **J. E. B.** and **F. C. B.** were apprehended by agents of one or more law enforcement authorities. **J. E. B.** was deported back to Guatemala in April 2018. (FCB - 000008)

24. **F. C. B.** was separated from his father and incarcerated in the State of Arizona in a facility owned and operated by **SWK**. While held prisoner in Arizona, **F. C. B.** was allegedly diagnosed with Adjustment Disorder, and recommended to be held in

a smaller facility. In June 2018 **F. C. B.** was taken to Banner Thunderbird Medical Center Emergency Room due to allegedly aberrant behaviors including aggressiveness, property destruction, self-injurious behaviors, and verbalizing suicide ideation. He was diagnosed with Adjustment Disorder with Mixed Disturbance of Emotions and Conduct. (FCB -

25. On or about June 21, 2018 **F. C. B.** was transferred and admitted to **SHILOH TREATMENT CENTER**, which is situated in Brazoria County, Texas for what was estimated to be a 30-day stay. (FCB – 000006-7; 000142)

26. On admission to **SHILOH, F.C.B.** was dosed with powerful psychotropic drugs, Risperdal and Lexapro. There is no evidence in the medical record provided by **SHILOH** that the parental or in *loco parentis* consent required by Texas Family Code, §266.004 was obtained. He was ordered to start Lexapro, the brand name for Escitalopram, which is prescribed to treat depression and anxiety, at 5 mg. per dose. He was also dosed with Risperdal, the brand name for Risperidone, which is used to treat serious mental/mood disorders such as schizophrenia, bipolar disorder, and irritability associated with autistic disorder at 0.25 mg. per dose. (FCB -000069-70) **F.C.B.** was never competently diagnosed with any of the conditions for which the powerful psychotropic drugs are legitimately prescribed.

27. On July 24, 2018 the Risperdal was discontinued because **F.C.B.** was showing no signs of psychosis. Nevertheless, the Lexapro dosage was doubled from 5mg. to 10 mg. (FCB - 000078-79)

28. From a July 3, 2018 date of measurement, **F.C.B.** demonstrated 8 incidents of depressive symptoms, 36 incidents of mood instability, 15 incidents of non-compliance, and 66 incidents of anxiety. During the same time frame there were zero

incidents of physical aggression, suicidal ideation, and self-injurious behavior. (FCB – 000036)

29. In a series of review documents dated July 19, 2018, **SHILOH** staff purported to observe behavioral symptoms during the period, July 10 – August 8, 2018. **F.C.B.** demonstrated zero incidents of physical aggression, physical aggression threats, and property destruction. During the same time frame, he had zero incidents of suicidal ideation, suicidal threats, and suicidal attempts. He had zero incidents of self-injurious behavior. (FCB – 000036)

30. During the same July 10 – August 8, 2018 time frame and starting with a baseline of 8 incidents of depressive symptoms, **F.C.B.** had zero incidents of depressed affect, withdrawal, agitation, irritability, crying, poor appetite, or excessive sleep. Mood instability, as demonstrated through hyper talkative behavior was observed 70 times from a baseline of 28 in the same time frame. Otherwise there were zero incidents of mood swings, depressed affect, withdrawal, agitation, irritability, crying, poor appetite, increased appetite, and excessive sleep. From a baseline of zero, there were 2 incidents of screaming/yelling, and zero incidents of temper outbursts, verbal aggression, verbal threats, and disruptive behavior. There were zero incidents of verbal aggression, verbal threats, profanity, and screaming/yelling. (FCB - 000042)

31. Defiant oppositional non-compliance was observed during the same July 10 – August 8, 2018 time frame as follows:

- a. Defiant behavior: Baseline, 0; observed incidents, 0;
- b. Refusing to Work: Baseline, 0; observed incidents, 1;
- c. Non-compliant behavior: Baseline, 0; observed incidents, 3;
- d. Leaving assigned area: Baseline, 8; observed incidents, 6;
- e. Argumentative behavior: Baseline, 1; observed incidents, 9;
- f. Oppositional behavior: Baseline, 0; observed incidents, 0;
- g. Slow to comply: Baseline, 6; observed incidents, 19;

- h. Task avoidance: Baseline, 0; observed incidents, 0; and
- i. Off task behavior: Baseline, 0; observed incidents, 1. (FCB - 000049)

32. Except for hyper-talkative behavior, anxiety symptoms diminished considerably during this time frame. There were zero incidents of anxiety and pacing from baselines of 14 and 15, respectively. There were two incidents of obsessive behavior from a baseline of 13. There were, however, 70 incidents of hyper talkative behavior from a baseline of 24. (FCB - 000044)

33. By August 15, 2018 the Lexapro dosage had again been doubled to 20mg by mouth at bedtime. (FCB - 000104)

34. On August 16 or 17, 2018, **F.C.B.** became upset about video games and began picking a hole in the wall. He wrapped a blanket around his head and neck and became physically aggressive when a staff member attempted to remove it. He was subdued with a cradle assist hold that lasted approximately 2 minutes. He verbalized his desire to go home with this father and grandmother. No psychiatric services or counseling services were provided during this time frame. (FCB – 000105)

35. On September 4, 2018 Benadryl, 25 mg by mouth was added to **F.C.B.**'s medication regime to help him sleep. Nevertheless, the record reports no medical services were rendered during this period. (FCB – 000112)

36. On September 11, 2018, **F.C.B.** participated in a friendly competitive game, Jenga. He wanted to win. His mode was focused and appropriate. (FCB – 000141)

F. LEGAL PRINCIPLES (CAUSES OF ACTION)

37. **Assault and Battery.** At all times material hereto, **Shiloh** and **SWK** acted intentionally, knowingly, or recklessly. On more than one occasion these

defendants, acting individually or through agents, servants, and employees, or persons otherwise subject to their control, threatened to and actually contacted Plaintiff's person. The contact was offensive and caused physical and emotional harm. Plaintiffs make common law claims for assault and battery against both **Shiloh** and **SWK**.

38. **False Imprisonment.** Both **Shiloh** and **SWK** willfully detained F.C.B. The detention was without Plaintiff's consent. The detention was without legal authority or justification. The detention was a direct and proximate cause of damage. Plaintiff makes common law claims for false imprisonment against both **Shiloh** and **SWK**.

39. **Intentional Infliction of Emotional Distress.** Both plaintiffs are natural persons. Defendants acted intentionally or recklessly against both plaintiffs. As a result of such intentional or reckless conduct Plaintiffs suffered severe emotional distress. The Defendants' conduct was extreme and outrageous. The Defendants' intentional or reckless conduct was a proximate cause of Plaintiffs' severe emotional distress. Plaintiffs make common law claims for the intentional infliction of emotional distress against both **Shiloh** and **SWK**.

40. Defendants are jointly and severally liable.

G. Remedies & Damages

41. Plaintiffs sue to recover reasonable compensation for their injuries and damages caused by Defendants' violations of law hereinabove alleged in amounts found by the jury.

42. The **SWK** and **SHILOH** defendants acted with fraud, malice, and gross neglect as those terms are used in Chapter 41, Texas CIVIL PRACTICE & REMEDIES CODE. Pursuant to the provisions of Chapter 41 plaintiffs are entitled to recover and sue for an award of exemplary damages as found by the jury giving due consideration to:

- (a) the nature of the wrong;
- (b) the character of the conduct involved;
- (c) the degree of culpability of the wrongdoer;
- (d) the situation and sensibilities of the parties concerned;
- (e) the extent to which such conduct offends a public sense of justice and propriety; and
- (f) the net worth of the defendant.

43. Plaintiffs sue to recover their, costs of court, prejudgment and post judgment interest as allowed by law.

H. Request for Disclosure

44. Plaintiff requests Defendants to disclose those matters designated for disclosure under Rule 194.2, TRCP. This is a continuing request.

I. Jury Demand

42. Plaintiffs demand a trial by jury. Their jury fee is paid with the filing and service fees of this action.

J. Prayer

43. Premises considered, Plaintiffs pray that Defendants be cited to appear and answer herein the terms of the law, that upon final hearing they have judgment of and from defendants, jointly and severally for the full amount of their damages, actual and exemplary, statutory, and equitable remedies as found by the jury, costs, expert witness fees, prejudgment and post judgment interest, and for such other and further relief as the Court may deem proper.

Respectfully Submitted,



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March 21, 2019

District Court Clerk
Travis County District Court

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RE: **J.E.B. individually and as next to friend to F.C.B. v. CLAY DEAN HILL**, individually and d/b/a **SHILOH TREATMENT CENTER, SHILOH TREATMENT CENTER, INC.**); **JUAN J. SANCHEZ**, individually and d/b/a, **SOUTHWEST KEY; AND SOUTHWEST KEY PROGRAMS, INC**
Service Documents Request

Dear Court Clerk:

Pursuant to the Court Clerk's instructions, please allow this correspondence to serve as a formal request to have the citations/service documents for the filed Petition, emailed to the following addresses:

1. jjudge@jkplaw.com
2. ldias@jkplaw.com

Meanwhile, with appreciation for your attention to this matter, I remain

Very truly yours,

John Judge